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Spatial Governmentality and the New Urban Social Order: Controlling Gender Violence Through Law

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Reviewed work(s):

Source: *American Anthropologist*, New Series, Vol. 103, No. 1 (Mar., 2001), pp. 16-29

Published by: [Wiley-Blackwell](#) on behalf of the [American Anthropological Association](#)

Stable URL: <http://www.jstor.org/stable/683919>

Accessed: 26/08/2012 12:51

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Spatial Governmentality and the New Urban Social Order: Controlling Gender Violence through Law

The new urban social order depends on a complex combination of systems of punishment, discipline, and security. Scholars drawing on Foucault's analysis of the art and rationality of governance, or governmentality, have explored how urban social orders are increasingly based on the governance of space rather than on the discipline of offenders or the punishment of offenses. The new urban social order is characterized by privatized security systems and consumer-policed spaces such as malls. Gender violence interventions represent another deployment of spatial forms of governmentality. Over the last two decades, punishment of batterers has been augmented by disciplinary systems that teach batterers new forms of masculinity and by security systems for women based on spatial separation. In the postmodern city, spatial governmentality is integrally connected with punishment and discipline. These new forms of governance circulate globally along with neoliberal ideas of the diminished state. [*gender violence, governmentality, urban society, globalization, law*]

Although modern penalty is largely structured around the process of retraining the soul rather than corporal punishment, as Foucault argued in his study of the emergence of the prison (1979), recent scholarship has highlighted another regime of governance: control through the management of space. New forms of spatially organized crime control characterize contemporary cities, from the explosion of gated communities (Caldeira 1999) to "prostitution free zones" as a regulatory strategy for the sex trade (Perry and Sanchez 1998; Sanchez 1997a, 1997b) to "violence free zones" as a way of diminishing communal conflict in India. Spatialized strategies have been applied to the control of alcohol consumption (Valverde 1998) and the regulation of smoking. In the 1970s, concerns about fear of crime in the United States expanded from a focus on catching offenders to removing "incivilities" in public spaces (Merry 1981; Wilson and Kelling 1982). This meant creating spaces that appeared safe to urbanites by removing people who looked dangerous or activities that seemed to reveal social disorder such as homeless people or abandoned trash. New community-policing strategies toward youths emphasize moving potentially criminal youths to other areas rather than prosecuting them (Ericson and Haggerty 1999:168).

These are all examples of new regulatory mechanisms that target spaces rather than persons. They exclude offensive behavior from specified places rather than attempting to correct or reform offenders. The regulation of space through architectural design and security devices is generally understood as a complement to disciplinary penalty

but fundamentally different in its logic and technologies (Ewick 1997; Shearing and Stenning 1985; Shields 1989; Simon 1988; Valverde et al. 1999). While disciplinary mechanisms endeavor to normalize the deviant behavior of individuals, these new mechanisms focus on governing populations as a whole (O'Malley 1993; Simon 1988). They manage risks by anticipating problems and preventing them rather than punishing offenders after the incident. Governance through risk management means mitigating harms rather than preventing transgressions. It is future-oriented and focuses on prevention, risk minimization, and risk distribution (Moore and Valverde 2000).

A focus on managing risks rather than enforcing moral norms has transformed police practices in recent years (Ericson and Haggerty 1997, 1999; O'Malley 1999a: 138–139). This approach seeks to produce security rather than to prevent crime—to reduce the risk of crime rather than to eliminate it. Order is defined by actuarial calculations of tolerable risk rather than by consensus and conformity to norms (Simon 1988). New policing strategies seek to diminish risks through the production of knowledge about potential offenders (Ericson and Haggerty 1997). In general, modern democratic countries have experienced a pluralizing of policing, which joins private and community-based strategies that focus on protection of space with public strategies that detect and punish offenders (Bayley and Shearing 1996).

New mechanisms of social ordering based on spatial regulation have been labeled spatial governmentality (Perry 2000; Perry and Sanchez 1998). They differ substantially

from disciplinary forms of regulation in logic and techniques of punishment. Disciplinary regulation focuses on the regulation of persons through incarceration or treatment, while spatial mechanisms concentrate on the regulation of space through excluding offensive behavior. Spatial forms of regulation focus on concealing or displacing offensive activities rather than eliminating them. Their target is a population rather than individuals. They produce social order by creating zones whose denizens are shielded from witnessing socially undesirable behavior such as smoking or selling sex. The individual offender is not treated or reformed, but a particular public is protected. The logic is that of zoning rather than correcting (see Perin 1977).

Spatialized regulation is always also temporal as well. Regulations excluding offensive behavior usually specify time as well as place. Systems such as curfews designate both where and when persons can appear. Spatial regulations may interdict particular kinds of persons from an area only during certain times, such as business hours, or prohibit behavior, such as drinking, only after a certain time at night (see Valverde 1998). Spatial regulation may cover all periods of time, but it is typically targeted to some specified part of the day. It may also be imposed only for a limited duration, as in the case of the stay-away court orders discussed below.

Although spatial forms of governmentality are not exclusively urban, they have taken on particular importance in modern cities. In addition to features of size, scale, heterogeneity, and anonymity, many contemporary cities are characterized by sharp economic inequalities, major differences in levels of development, global labor and capital flows, and a shift to neoliberal forms of governance (see Low 1999). As states endeavor to govern more while spending less, they have adopted mechanisms that build on individual self-governance and guarded spaces. They establish areas to which only people seen as capable of self-governance have access and incarcerate those who cannot be reformed. People are encouraged to participate in their own self-governance, whether by voluntarily passing through metal-detector machines in airports or organizing into community watch brigades (Bayley and Shearing 1996).

In the United States, this has meant an increasing focus on self-management along with the rapid expansion of prison populations. There has been an enormous increase in the number of prisoners over the last decade as well as a turn to more severe punishments, including the revival of the death penalty. Within the neoliberal regime of individual responsibility and accountability, populations are divided between those understood as capable of self-management and those not. Managing spaces and incarcerating offenders are therefore complementary rather than opposing strategies. These complementary strategies are the product of the vast economic inequalities dividing urban

populations in the United States. In American cities, spatial strategies are typically used by the wealthy to exclude the poor, while those who fail to respect these islands of safety are incarcerated. Private organizations pursue similar strategies, developing systems of private policing and governance that parallel those of the state (Valverde et al. 1999). This transformation seems to be characteristic of cities outside the United States as well (see Low 1999; Caldeira 1999). Indeed, contemporary urbanism is shaped not only by features of size, scale, and anonymity but also by globally produced inequalities and transnationally circulating notions of governance.

Spatial governmentality is typically portrayed as a recent technology of governance, but the use of spatial separation as a form of governance is ancient. Preindustrial cities were often enclosed to protect them from the dangers of marauding bandits outside the city walls (Sjoberg 1960). In the medieval walled town as well as in the postmodern global city, spatial mechanisms existed that excluded the rule-breaker. But the relative importance of spatial systems seems to be increasing in the burgeoning cities of the new millennium. The turn to more spatialized systems reflects despair about the possibilities of reform and the difficulties of reincorporating offenders into the contemporary order of labor (see Simon 1993a). The new systems promote safety for the privileged few by excluding those who are dangerous rather than promoting safety for the collectivity by seeking to reform those who offend. Constructing safe, policed spaces requires resources that are not available to everyone. These strategies are limited to those who can mobilize them—typically people located in more privileged positions in class, racial, and gender hierarchies. New walled towns within cities allow wealthier individuals to retreat into privately secured spaces and abandon the public arena (see Perry 2000). With the shift to community policing and private police, the affluent acquire greater safety than the poor (Bayley and Shearing 1996).

The expansion of spatial governmentality diminishes the scope of collective responsibility for producing social order characteristic of governance in the modern state. Some persons are defined as hopeless, deserving exclusion rather than correction and reintegration. The collectivity takes less responsibility for the excluded. Prisons are increasingly seen as holding pens rather than places of education, training, and reform.

Although spatial governmentality is generally described as a system that provides safety for those who can afford it while abandoning the poor to unregulated public spaces, in this article I describe a different use of spatial governance: the spatial exclusion of batterers from the life space of their victims. This is not an instance of creating a collective safe space but, instead, of protecting a person by prohibiting access to her home or workplace. This approach emphasizes the safety of the victim rather than the punishment or reform

of the offender. Unlike the more recognized uses of spatial governance, this initiative endeavors to protect poor women as well as rich women. It represents the use of spatial systems of governance that benefit more than the wealthy and privileged. Like other forms of spatial governmentality, however, this regime typically controls the disadvantaged rather than the privileged. People subject to restraining orders for gender violence are typically poor men very similar to, and often identical with, those generally controlled by the forms of spatial governmentality developed by the wealthy. It is not that these are the only men who batter, but these are usually the only ones who end up in the restraining order process.

The use of spatial control in gender violence situations is relatively new. It took a powerful social movement many years to develop this legal protection for battered women. Punishing batterers for the crime of assault is an old practice; providing legal restrictions on their movements to create a safe space for victims is much newer (Pleck 1987). A concerted social movement of feminist activists beginning in the late 1960s argued for the applicability of protective orders for such situations. Commonly referred to as temporary restraining orders (TROs), these orders supplement more conventional strategies for punishing batterers. TROs are court orders that require the person who batters (usually but not always male) to stay away from his victim (usually but not always female) under penalty of criminal prosecution. In the United States, protective orders were used for domestic abuse situations beginning in the 1970s, about the same time as refuges and shelters were being promoted by the battered-women's movement (Schechter 1982). Both provide a safe space for the victim rather than seeking to reform or punish the offender. It was not until the late 1980s that activists succeeded in persuading courts and police to use these protective orders widely. Requests for civil protective orders for battering grew dramatically in the 1990s. My research documents the explosion of these cases in a small town in Hawai'i in the late 1980s and 1990s, a pattern replicated in other parts of the country during the same time period.¹ Although I am describing spatial governmentality in a small town rather than a major city, restraining orders were developed in large urban areas and spread to smaller cities and towns.

Although spatial mechanisms may reduce women's risk of attack from their batterers, they only protect a victim from a specified offender for a limited period of time. They do not establish public safety zones that exclude people with histories of battering. Nor is there intensive surveillance of people with hazardous risk profiles for battering. Such proactive risk-minimization strategies are increasingly common in modern policing strategies that target high-risk populations for special surveillance (Ericson and Haggerty 1999), but the protection of poor women from their batterers has not evoked a similar investment of state resources. Indeed, it is only the consistent political pressure of

battered-women's advocates that has succeeded in developing and extending this mechanism for governing batterers.

The article is based on a decade of ethnographic research in a town in Hawai'i, a place with a distinctive colonial past and plantation legacy but a thoroughly American legal system and feminist movement against battering. Its courts follow mainland U.S. patterns in their reliance on spatial processes for protecting battered women as well as in their approaches to punishing and reforming batterers. The town, Hilo, has 45,000 inhabitants and serves as the hub of a large agricultural region dotted with vast sugar cane plantations, the recent collapse of which has exacerbated problems of unemployment and poverty. Although it lacks the anonymity of larger cities, Hilo shares the wide economic disparities of contemporary American cities. Farmers, plantation workers, part-time construction workers, homeless people living on the beach, welfare families, professors, judges, and county officials jostle one another in the streets, stores, and offices of Hilo and its environs. Although dispersed rural communities often do not use shelters or courts to handle gender violence, Hilo is sufficiently urban to rely heavily on the law and formal organizations such as shelters. Moreover, Hilo is influenced by changing conceptions of governance from the U.S. mainland. This analysis of spatial approaches to wife battering shows the importance of spatial modes of governance in contemporary urban life and reveals the extent to which these new forms of governance are circulating from one local place to another.

Theorizing Spatial Governmentality

The concept of spatial governmentality derives from Foucault's elaboration of the notion of governmentality, a neologism that incorporates both government and rationality (1991). Governmentality refers to the rationalities and mentalities of governance and the range of tactics and strategies that produce social order. It focuses on the "how" of governance (its arts and techniques) rather than the "why" (its goals and values). Techniques of governmentality are applied to the art of governing the self as well as that of governing society. Nikolas Rose defines governmentality as "the deliberations, strategies, tactics and devices employed by authorities for making up and acting upon a population and its constituents to ensure good and avert ill . . ." (Rose 1996:328; see also Miller and Rose 1990; Rose and Miller 1992; Rose and Valverde 1998).

Considerable research on governmentality has delineated a rough historical sequence from eighteenth-century mechanisms that act primarily on the body, such as exile or dramatic physical punishment, to a modern, nineteenth-century system of social control that relies on reforming the soul of the individual and normalizing rule breakers, to a late-twentieth-century postmodern form of social control that targets categories of people using actuarial techniques

to assess the characteristics of populations and develops specific locales designed for prevention rather than the normalization of offenders (Simon 1993b).² The modern system relies on disciplinary technologies to forge the modern subject at work as well as in the family. The post-modern system is premised on a postindustrial subjectivity of consumption, choice, introspection about feelings, and flexibility. It draws on the therapeutic mechanisms widespread by the close of the twentieth century. The contemporary use of therapy to acquire self-governance, to learn to manage feelings, to rethink the costs and benefits of violence against intimates, and to focus on choice represents a new technology of governance characteristic of postindustrial society (Rose 1990, 1996; Simon 1993a). Therapies of various kinds seek to gain the subject's compliance in a regime of change. Instead of inducing change through discipline and habit, these approaches focus on insight and choice. The subject is encouraged to understand why she feels and acts as she does and brought to see that she could make different choices that would be better for her. An important facet of therapeutic interventions is, therefore, an emphasis on self-governance, on establishing control over feelings, and on making choices about actions. These systems focus not on regimes of punishment and correction but on inducing consent through coercion—on forcing people to participate in remaking themselves, taking responsibility for themselves, and developing their capacity to control their emotional lives and actions. Foucault refers to this form of power as “a biopolitics of the population” in contrast to disciplinary power that works on deviant individuals (O'Malley 1993:160).³ These transformations are part of a transnational movement toward self-management and neoliberal governance rather than the particular features of urban environments.

At the same time, there has been an elaboration of mechanisms that promote security by diminishing risks. Risk-based techniques such as social insurance, workers' compensation, and income tax are examples of security-focused technologies of governance. They offer more efficient ways of exercising power since they tolerate individual deviance but produce order by dividing the population into categories organized around differential degrees of risk (O'Malley 1992; Simon 1988). Risk-based approaches fall within the sphere of neoliberal techniques of governance, which Valverde et al. describe as the downloading of risk management to individuals and families, “responsibilization,” empowerment, and consumer choice (1999:19). Responsibilization involves the inculcation and shaping of responsibility for good health and good order within the home, the family, and the individual by means of expert knowledges (Rose 1999:74).

Foucault was unclear about whether these three forms of governance, organized by a logic of punishment, discipline, and security, represented a sequence or a coexisting

triangle (Foucault 1991:102). He suggests that there has been a rough historical development from feudal forms of the state based on sovereignty and law to an administrative state characterized by regulation and discipline to a governmental state defined not simply by its territory but by its population and economic administration and controlled by the apparatuses of security (1991:104). Then he argues that sovereignty, discipline, and government do not replace each other but constitute a triangle with its primary target the population and its essential mechanism the apparatus of security (1991:102). The triangle suggests mutual interdependence and connection rather than displacement, but Foucault never developed this concept nor its implications for the interpenetration of law, normalization, and discipline (see Hunt and Wickham 1994:67).⁴ Empirical research suggests a relationship of growth and layering among these forms of governance rather than a process of displacement. For example, the study of alcohol regulation suggests the historical accretion of governance practices and their mutual redefinition of one another rather than a series of stages (Valverde 1998:177).

Patrick O'Malley questions the evolutionary assumptions behind the thesis of a sequence of forms of governance from punishment to discipline to security. New strategies are developed not just because they are more efficient, but also because they belong to political programs developed in moral and political struggles oriented either toward neoconservative or social justice agendas (O'Malley 1992, 1996; O'Malley and Palmer 1996).⁵ For example, Alan Hunt demonstrates how new forms of governance of others and of the self arise out of social movements for moral reform (1999). These movements for moral regulation, often focusing on demands for new patterns of drug consumption or sexual behavior, are spearheaded by particular actors located in the state, in organizations, or in communities who articulate a crisis and a solution in a way that resonates with broader social trends and discourses (Hunt 1999:10). Changes in forms of governance are agentic and contested parts of the political and social process. Indeed, in the case of gender violence, it is clear that the new deployment of spatial governmentality—the use of restraining orders—was the result of sustained political activism.

Many forms of governmentality have a spatial component. Foucault recognized a critical role for spatial ordering in his analysis of systems of discipline in the nineteenth century, but he saw its role largely as a frame for ordering and confining bodies and as a structure of surveillance (1979). In contemporary society, spatialized forms of ordering are connected to the recent intensification of consumption as a mode of identity formation along with neoliberal approaches to government. In contemporary cities, there is increasing focus on managing the spaces people occupy rather than managing the people themselves. Systems of providing security through the private regulation of

spaces reveal the emergence of postcarceral forms of discipline that do not focus on individualized soul training (Shearing and Stenning 1985:336). Instead, these new forms of regulation depend on creating spaces characterized by the consensual, participatory governance of selves (Ewick 1997; O'Malley and Palmer 1996; Rose 1996; Shearing and Stenning 1985; Shields 1989; Simon 1993a). These systems rely on selves who see themselves as choice-making consumers, defining themselves through the way they acquire commodities and choose spouses, children, and work (Miller and Rose 1990). As Rose argues, in liberal democracies of the postwar period, citizens are to regulate themselves, to become active participants in the process rather than objects of domination (1990:10). Citizen subjects are educated and solicited into an alliance between personal objectives and institutional goals, creating the phenomenon Rose calls "government at a distance" (Rose 1999).⁶

Disney World and the shopping mall represent locales for such participatory regulation in which the self is made and makes itself in ways structured by the private regulation of the space. These forms of regulation rely on the state only minimally and are largely maintained through private security forces. The space itself creates expectations of behavior and consumption. These systems are not targeted at reforming the individual or transforming his or her soul; instead they operate on populations, inducing co-operation without individualizing the object of regulation. Private control lacks a moral conception of order and is concerned only with what works; it is preventative rather than punishing (Shearing and Stenning 1985:339). This shift to an instrumental focus means a move away from concern with individual reform to control over opportunities for breaches of order. Spatial governmentality works not by containing disruptive populations but by excluding them from particular places. The shopping mall, the prototype of spatial governmentality, is also the product of market-based technologies for shaping and controlling identity and behavior. As subjects become consumers, "the autonomous citizens regulate themselves through organizing their lives around the market" (O'Malley 1993:172–173). The individual invested with rights is replaced by the individual who defines himself or herself by consumption. This control is promotive rather than reactive, voluntary rather than coercive, based more on choice than constraint. Power appears to disappear behind individual choice (Ewick 1997:81). Systems of private regulation are backed by formal legal processes, which will remove those who cannot govern themselves.

Thus, the newer systems coexist with morally reformist carceral systems, each defined by whom and what it excludes (Ewick 1997; see also O'Malley 1992). The prison system survives and expands along with nonpunitive systems, which manage the opportunities for behaviors rather than the behaviors themselves. Outside the space marked by

the absence of penal power, there is a world of unemployed, insane, socially marginal people subjected to the penal power of police and prisons (Ewick 1997:83). Although there is a tendency to understand these changes as sequential rather than co-present, Ewick notes that the spatial system of ordering founded in consumption depends on an expanding carceral system for those excluded from participation in the shopping mall order of individual choice (1997). As in the control of gender-based violence, spatial forms of ordering operate against a backdrop of punishment.

Punishment/Therapy/Safety: Approaches to Gender Violence

From a governmentality perspective, there are three distinct forms of governance: punishment, discipline, and security. One is based on punishing offenders, one on reforming offenders through therapy and training, and one on keeping offenders away from victims through spatial separation. All three are used in dealing with gender-based violence in cities in North America. In this section, I describe each form of governmentality as it has been developed to control wife abuse in the United States and show how it works in practice in the particular context of Hilo, Hawai'i. In wife-battering cases, the dominant mode of punishment is incarceration. Reform depends on a range of services such as batterer intervention programs, control of alcohol and drug use, parenting classes, counseling, and the ongoing supervision of a probation officer. Security is produced by spatial systems such as civil protective orders, which require batterers to stay away from their victims. A detailed analysis of the operation of each of these mechanisms indicates fundamental differences in the logic of each as well as intersections in practice. Spatial forms of governance require punishment as a last resort, while they also are connected to efforts to reform batterers.

Punishment/Prison

Punishment is targeted to a particular act rather than the character of the offender or the plight of the victim. It seeks to deter future offenses with the fear of punishment. In the past, forms of public punishment were designed not to reform the offender but, as Foucault argues, to express the will of the sovereign (1979).⁷ These punishments were tailored to the offense itself and included flogging and public torture. In the modern period, punishment is largely deprivation of property (fines) and deprivation of liberty (prison). Incarceration is justified by the possibility of reform even though it is generally acknowledged that prisons fail to reform.

Beginning in the 1970s, feminist activists pressed for a greater use of punishment in gender violence cases, advocating mandatory police arrests, no-drop prosecution, and

mandatory incarceration. Historically, under the legal doctrine of coverture, the family had been defined as a private sphere under the authority of the husband rather than the state (see Fineman and Mykitiuk 1994). Although coverture was generally eliminated by the late nineteenth century in the United States, its legacy is a reluctance to intervene legally in the family in ways that challenge male authority. The law intervenes in gender violence incidents less readily than in other cases of assault. Until recently, violence within families was treated as a social problem reflective of poverty rather than as a criminal offense. As late as 1973, a prosecutor working in the District of Columbia bemoaned the lack of punishment batterers received through the law and the total absence of services to which batterers or their victims could be referred (Field and Field 1973).

Gender violence cases did appear in court in the past in Hilo, and offenders were generally found guilty and fined, but the numbers were small. Between 1852 and 1913, about eight cases were handled in the court each year, representing 2% of the annual caseload and 14% of all violence cases.⁸ Court and police records for the 1970s show a steady but low level of use of police and courts. Between 1971 and 1976, there were between one and nine cases of gender violence in Hilo courts every year and between 1980 and 1986, fewer than twenty a year. By 1998 the number had increased 25 times to 538 cases a year and the caseload in 2000 is likely to be even higher (see Figure 1). Calls to the police for help increased fivefold from 500 a year in 1974 to 2,500 in 1994 while the population doubled. Fragmentary data from other parts of the United States reveal a similar staggering growth in the number of criminal cases of domestic violence in the courts since the mid-1980s. These changes are a result of demands for a more activist police force and mandatory arrest policies along with no-drop prosecution.⁹

This increase in cases has not translated into a significant increase in punishment. Instead, it has served to funnel offenders into an array of services and subject them to ongoing supervision by the courts. A 1995 study of 140 domestic violence arrests in 11 jurisdictions found that only 44 made it to conviction, plea, or acquittal, and of these, only 16 served any time (Hanna 1998:1523). In Hawai'i, a new spouse abuse statute passed in 1986 mandated 48 hours of incarceration for a person convicted of battering. Judges and prosecutors in Hilo say that it is very common for men to escape jail time by pleading to a lesser charge, such as third degree assault, with the stipulation that the offender receive probation and attend a batterer intervention program—but not do jail time. It is also common for cases to be dismissed altogether because the victim refuses to testify or the defendant leaves the island. In Hilo, many cases are not prosecuted, but convictions usually lead to punishment. In a sample of 30 cases heard in the courts in

Hilo in the summer of 1994, for example, almost half (12) were dismissed or not prosecuted.¹⁰ Of the 18 prosecuted, 12 went to jail, almost all (11) with the minimum sentence of two days or time served. Of the 6 who did not go to jail, 2 received a suspended sentence and 4 had the charge reduced to third degree assault. However, all 18 received one year of probation with the stipulation that they were not to threaten or harm the victim and fully 17 were referred to social services. The most common social service was the feminist batterer intervention program (13), although many were sent to alcohol and drug services (9), other private counseling and anger management programs (5), or an indigenous Hawaiian dispute resolution process (3). Six of these people indicated that there was a TRO in effect at the time of the arrest. A sample of 7 cases in the year 2000 showed somewhat greater punishment, with 6 out of 7 receiving jail time and only 1 being dismissed. Thus, the major intervention of the court is reform through social services backed by the threat of punishment. The same people are often involved in both criminal and civil proceedings.

Discipline/Reform

Disciplinary techniques work on persons rather than actions, seeking to reform them through rehabilitation and repentance. Disciplinary systems incorporate a broad range of therapeutic and group discussion techniques ranging from batterer's intervention programs to alcoholics-anonymous-style self-help meetings (see Rose 1990; Valverde 1998). Some are designed to reform by forcing the body to follow an orderly sequence of activities in work and everyday life, while others reform through introspection and insight, requiring consent from the subject of transformation. As Simon points out, prison reform models from the early nineteenth century already incorporated these two approaches to discipline: one was based on habituation of the body and coordination with the machinery of production while the other developed skills of self-management and self-control and promoted autonomy and integrity (1993a: 29). These two forms continued to provide alternative models of discipline throughout the nineteenth and early twentieth centuries, but the latter came to predominate. In the late twentieth century, the criminal justice system in the United States has increasingly turned to introspective forms of discipline and self-management (Simon 1993a).

In the 1990s, this model dominated batterer reform efforts in Hilo as well as in the rest of the United States.¹¹ Feminist-inspired batterer intervention programs grew out of discussions by battered women in Duluth, Minnesota, in the 1980s, which emphasized that battering needs to be understood in terms of power and control (Pence and Paymar 1993). This model focused on undermining the cultural support for male privilege and violence against women by exploring men's feelings and beliefs and encouraging men to analyze their own behavior during battering events.

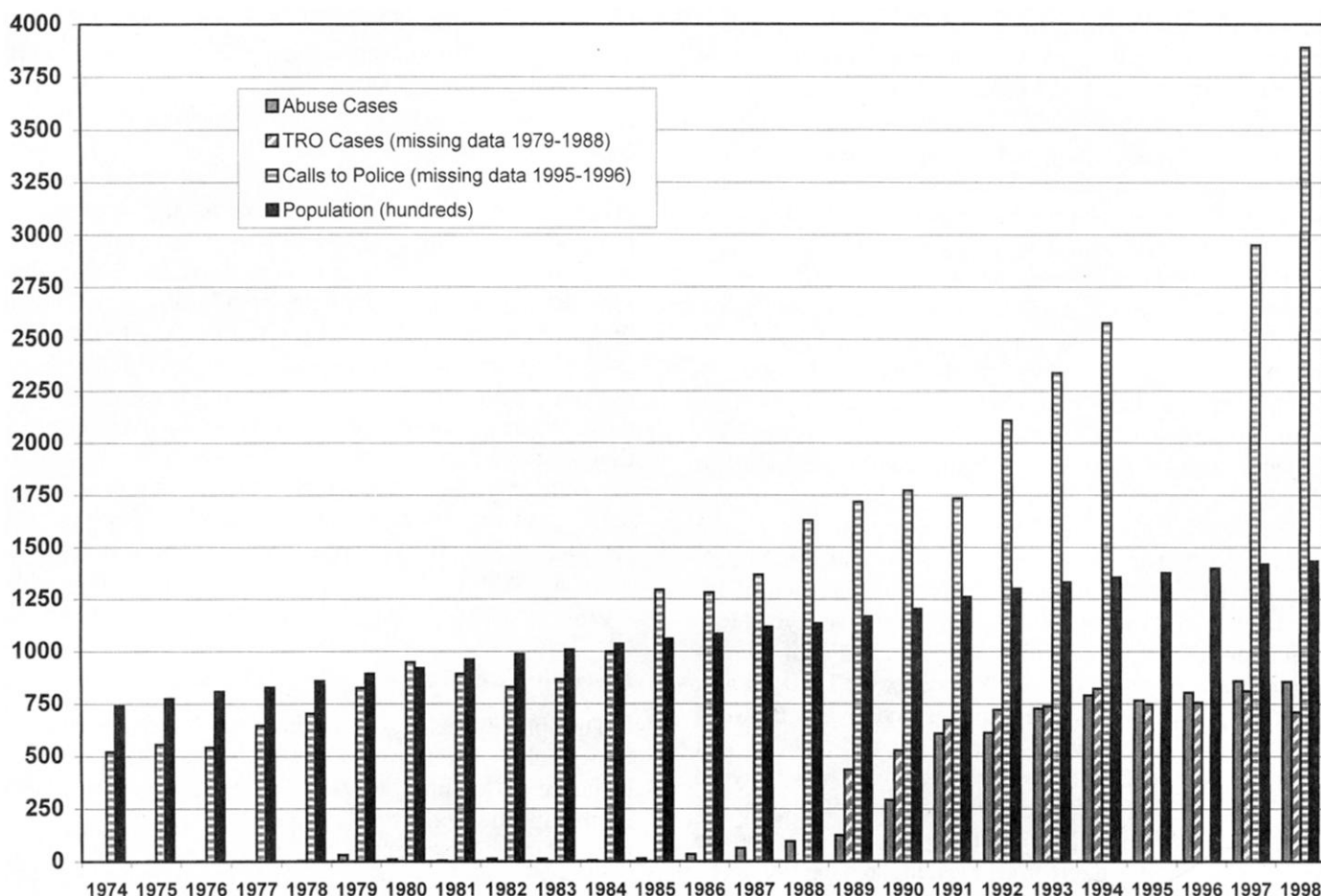


Figure 1. Legal intervention and population, county of Hawai'i.

Violence against women was understood as an aspect of patriarchy. A dominant feature of group discussions was changing beliefs about men's entitlement to make authoritative decisions and back them up with violence.

The Duluth model came to Hawai'i in the 1980s. Men convicted of spouse abuse or under a TRO were required to attend the Alternatives to Violence (ATV) program started in Hilo in 1986. ATV offers violence control training for men and a support group for women.¹² Men are required to attend weekly two-hour group discussions for six months. In groups of 10 to 15 men and 2 facilitators, participants talk about their use of violence to control their partners. Discussions stress the importance of egalitarian relations between men and women and the value of settling differences by negotiation rather than by force. The men are taught that treating their partners with respect rather than violence will win them a more loving, trusting, and sexually fulfilling relationship and forge warmer relations with their children. They are not to refer to their partners as "old lady" or "cunt," nor are they to exercise male privilege. Egalitarian gender relations are modeled by the male/female team of facilitators leading the group.

If men fail to attend the program, the staff informs their probation officers. Those whose attendance is a stipulation of a criminal spouse abuse conviction face revocation of their probation. Those required to attend as a condition of a TRO are guilty of contempt of court—a criminal offense—and their case is sent to the prosecutor. In practice, these men are typically sent back to ATV rather than receiving a jail sentence or other criminal penalty, but the threat of jail time is frequently articulated by judges during court hearings. Thus, attendance at this psychoeducational program is enforced by the threat of prison. The program emphasizes training in self-management of violence, but failure to accomplish this task results in the return to a regime of punishment, at least in theory. In practice, nonparticipants are typically sent back to the program. Only after new violations are they sent to jail.

The men attending this program are largely poor, unemployed, and relatively uneducated. Program intake forms for 1,574 people served between 1990 and 1998, of whom two-thirds were men, provide demographic data on who is referred. About three-quarters of the men (77%) and women (70%) earned under \$11,000. In contrast, the 1990

Census found that only 19% of the town's residents earned under \$10,000 in household income while 53% earned over \$25,000, an income level reached by only 4% of the ATV women participants.¹³ Men and women in the violence control program and women's support groups frequently talked about poverty, welfare, and survival by fishing, hunting, and odd construction jobs. ATV clients are also substantially less educated than town residents, with the men even less educated than the women. Half are high school graduates (46%) and one-quarter started college (25%), but only 3% have a college degree. While 29% of Hilo's population has an associate's, bachelor's, or higher degree, only 5% of the ATV population does.¹⁴ Thus, the men sent to the violence control program, as well as the women they batter, are significantly poorer and less educated than the town overall.

The courts occasionally referred batterers to one of several alternative approaches to gender violence in Hilo. The most common were family therapy, Christian pastoral counseling, and an indigenous Native Hawaiian model of healing and conflict resolution. These alternatives incorporate quite different ideologies of gender and marriage than feminist programs. For example, conservative Christian models seek to develop respect within family relations while reinforcing the husband's authority and the permanence of marriage. Yet all use techniques of self-management and self-reflection similar to those used at ATV, techniques that Rose argues are characteristic of the technology of governance in the present period (1999). Batterers, too, are to be reformed through these technologies of the self.

Security/Spatial Mechanisms

Security techniques are those that seek to minimize the harm wreaked by offenders by containing or diminishing the risks they pose to others. They focus on protecting victims or potential victims and spreading the cost of harms to a larger group through insurance systems. Security technologies assess risks, anticipate and prevent risks, and analyze factors that produce risk. Their target is an entire population rather than particular individuals, and the goal is not reform but security for the population as a whole. Foucault sees security as a specific principle of political method and practice capable of being combined with sovereignty and discipline (Gordon 1991:20). The method of security deals in a series of possible and probable events, calculates comparative costs, and, instead of demarcating the permissible and forbidden, specifies a mean and possible range of variation. Sovereignty works on a territory, discipline focuses on the individual, and security addresses itself to a population. From the eighteenth century on, security is increasingly the dominant component of modern governmental rationality. Hunt and Wickham suggest that Foucault's term *security* can be better translated as "welfare,"

emphasizing the focus on individuals as subjects of the state (1994:54). The emphasis on security technologies represents, Gordon argues, Foucault's most important extension of the analysis of discipline beyond the framework of *Discipline and Punish* (1991:20).


Insurance is an important aspect of security technologies. It is concerned with the likelihood of events rather than with fault or responsibility. As Ewald notes, law and insurance are practices with quite heterogeneous categories, regimes, and economies, since law is preoccupied with determining responsibility for injurious actions while insurance is only interested in the likelihood of injury and the assessment of reparations for categories of individuals deduced on the basis of statistical calculations (1991:201). Security systems are engaged in reducing danger not by reforming individuals who are threatening but by predicting who might be dangerous and either preventing and neutralizing that danger or spreading it evenly among the population. Some forms of criminal behavior, such as drug use, are currently being subjected to harm-minimization strategies designed to diminish the harm that this behavior imposes on individuals and the wider population instead of using disciplinary strategies (Feeley and Simon 1994; O'Malley 1999b).

In the domain of gender violence, security techniques are designed to protect victims instead of seeking to reform offenders. They did not emerge in the field of gender violence until the battered-women's movement of the 1970s (Schechter 1982). Although there was some use of "peace bonds" in earlier years, leaders of the battered-women's movement began to press for a system of restraining orders rooted in the civil law system in the early 1970s. A 1973 article describes a New York statute for a family court proceeding that allowed a victim to receive a protective order without having to bring criminal charges. This order was backed by a penalty of prison for its violation (Field and Field 1973:238). During this period of initial experimentation, there was worry about the lack of a right to counsel and protection against self-incrimination for the defendant in this civil proceeding. On the other hand, some applauded the way this legal mechanism could invoke the authority of the law in a noncriminal context. In 1976, Pennsylvania became the first state to pass legislation authorizing judges to issue domestic violence restraining orders; in 1978, Massachusetts followed suit (Ptacek 1999:48). In Hawai'i, a law providing for Ex-Parte Temporary Restraining Orders for victims of domestic violence was passed in 1979.¹⁵ Thus, the use of protective orders for domestic violence represented a new legal mechanism developed in the 1970s, which disseminated rapidly across the U.S.

This is the most innovative feature of contemporary American efforts to diminish wife battering. It is fundamentally a spatial mechanism since it simply separates the

man and the woman. Shelters, which provide places of refuge for battered women, are similarly novel inventions of the battered-women's movement of the 1970s, although they build on older patterns of safe houses and helpful neighbors and relatives. Neither of these interventions makes an effort to reform the batterer, but seek only to keep him away from the victim.

The TRO Process in Hilo



The development of this legal mechanism means that gender violence incidents arrive in the legal system through two quite different processes: a criminal process of arrest and conviction or a civil process of issuing a temporary restraining order. The first leads to a trial and potential criminal conviction, the second to a family court hearing that could result in the issuance of a TRO. Both are activated largely by the complaint of an injured party, although a police officer may be summoned by a neighbor, relative, or friend. TROs are almost always issued at the request of an individual petitioner. Although the first process is a criminal one and the second a civil one, in practice there are many connections between the two. Criminal cases are often handled through plea bargaining between the prosecutor and defense attorney rather than trial. Defendants typically receive the same sentences as TRO respondents. Moreover, a civil case can be converted into a criminal case if there is a violation of the conditions of the order. Thus, civil cases often become criminal while criminal cases are typically handled through informal negotiation that takes the victim's wishes into account, paralleling civil procedures. A final important connection between these two processes is that it is common for the same couple to become involved in civil and criminal processes simultaneously. Victims and batterers are sometimes confused about the relationships between the two courts and the differences in their procedures.

The civil court process must be initiated by the victim, who goes to the Family Court to secure the order. The Family Court is itself a recent concept, created as a separate judicial entity in Hawai'i in 1989. A person can apply for a TRO against any family member, whether or not he or she is living in the same household.¹⁶ The victim fills out an affidavit, which is reviewed and signed by the judge. This initiates a temporary, emergency order requiring the named individual to vacate the premises or to refrain from violence, depending on the kind of order requested. There must be a hearing before the Family Court within 15 days to extend the order.

The number of requests for TROs has increased dramatically since the early 1970s. Between 1971 and 1978, there were 7 protective orders or "peace bonds" issued in Hilo for domestic violence situations. By 1985, however, the year a new, more stringent spouse abuse law went into effect, there were 250 in one year. In 1990 there were 338

and by 1999, 471 from an area of perhaps 70,000 residents. Although there has been a doubling of population in the last twenty years, TRO petitions have increased far more rapidly (see Figure 1).¹⁷

Observations of the domestic violence calendar during the 1990s indicate that most defendants are men and most victims are women.¹⁸ The women who bring these cases to the court are primarily young, in their 20s and 30s, and nonprofessional workers or nonworkers. Their ethnic identities reflect the local population, including white, Portuguese, Filipino, Japanese, Hawaiian, Hawaiian/Chinese, and Puerto Rican individuals. Because of the high rate of intermarriage among these groups, the majority have multiple ethnicities. Most are "local," although a significant minority are people from the mainland, many of whom follow alternative lifestyles such as that of the pioneer/survivalist aspiring to live off the land. A few support themselves by cultivating marijuana. Most of the people have low incomes and often are not working.

At the hearing, victims are almost always accompanied by a woman advocate from ATV. The man appears alone, although there is always a male advocate from the ATV program present in the waiting area of the court and willing to talk to the men. The Family Court judge reads the written account provided by the victim, asks the accused if he or she acknowledges the charge, and takes testimony if the accused denies all violence. If the accused accepts the charge or the evidence is persuasive, the judge issues a TRO for a period of months with a series of conditions. If there are no children and a desire by both to separate, the respondent is told to stay away from the petitioner and both are told to have no further contact. This is called a no-contact TRO. If they have children but the victim wishes no contact, the judge will arrange visitation or custody for the children and specify no contact between the adults. If they wish to continue the relationship and/or to live together, the judge usually issues a contact TRO but also sends them to ATV, requiring either the accused or both parties to participate in the program. The contact order allows the respondent to be with the petitioner but prohibits him from using violence against her. Observations of 130 cases in the early 1990s indicated that slightly under half (42%) of petitioners requested and received contact TROs.

At the hearing, the judge points out that any violation of the conditions of the protective order is a misdemeanor, punishable by a jail sentence of up to one year and/or a fine of \$2,000. He frequently schedules a review hearing in a month or two to monitor the situation, particularly for the contact restraining orders, and to make sure that the conditions of the TRO are being fulfilled. He also requires the respondent to surrender any guns in his possession to the local police officer for the duration of the TRO.

The Family Court judge's concerns are twofold: first, to stop the violence and second, to protect the children involved. The judge endeavors to convey a clear message

that violence is against the law and that it is bad for children. Any indication of violence or abuse against children elicits an immediate referral to Children's Protective Services. Protective orders commonly include the requirement to seek treatment as well as the obligation to refrain from violence and, in no-contact orders, to stay away. The judge is much more likely to refer a couple to the batterer intervention program when the woman requests a contact TRO than when she wishes no contact. When a woman requesting a TRO says she wishes to stay with her partner and they have children, the judge usually makes a referral to ATV.¹⁹

These legal orders are sometimes viewed uneasily by judges. Since they begin as an emergency intervention, they impose restrictions on individuals who are initially absent from the hearing. Because they are civil proceedings rather than criminal, defendants do not have the right to an attorney if they cannot afford one. Yet, if a person violates the terms of a TRO, he is guilty of contempt of court and can be prosecuted for a criminal violation and theoretically face a prison sentence. Although in practice this is rare, in theory it remains a possibility. In Hilo, a violation based on a violent incident typically led to a new arrest, while a violation based on the failure to attend ATV typically led to being resentenced back to the program.

A second difficulty with the TRO in gender violence cases is its limited enforceability. It relies on the respondent's acquiescence or an effective police response. In the hands of a skeptical batterer, it is no more powerful than the policing behind it. With a no-contact TRO, a respondent is in violation if he simply appears at the plaintiff's house or workplace. The police should remove him and charge him with a violation of order. Thus, the efficacy of the order depends on the willingness of the police to appear and take the violator away.

But a no-contact order does not fit well with the exigencies of everyday life. A woman may wish to see her partner to exchange children, to ask for financial help, or simply because she is lonely and wishes to consider restarting the relationship. If she allows him into her house, she is violating the TRO and he is risking criminal penalties. In order to avoid these difficulties, many women request a contact TRO initially or ask to change the no-contact order to a contact one a few months after the incident. Under a contact order, the petitioner and respondent can be together, but he is prohibited from using violence against her. There is no spatial segregation. In many cases, women want the continuation of the relationship without the violence.

A third difficulty is that a woman with a contact restraining order is little better off than a woman without one. A new act of violence simply places the batterer at risk of being arrested for that violence, as he would be in any case. Some judges have expressed discomfort with the contact TRO, arguing that it is too hard to enforce and should be eliminated. Without spatial and temporal separation, the TRO is

a fragile form of governance. The Family Court judge in Hilo tried to persuade petitioners to ask for no-contact TROs. Nevertheless, almost half the TROs issued in Hilo were contact orders.

A final difficulty with the TRO system occurs when the parties succeed in persuading a judge to issue mutual restraining orders. If both parties file for restraining orders against each other and if a judge issues both, then any time they are together both are guilty of a legal infraction. Since it is common for an incident of wife battering to include mutual blows, such an outcome can appear logical to a judge. Yet, the result is an enforcement quagmire, since both are equally, and indistinguishably, guilty at the moment of contact. A related problem is the use of TROs to deal with custody disputes. The party who retains custody of the children with a TRO has an advantage in keeping the children during subsequent divorce proceedings. Consequently, a person contemplating divorce may take out a restraining order on his or her partner in order to be in possession of the children at the time of the divorce decree.

On the other hand, this is a mechanism that focuses on the safety of the woman without waiting until the man has been reformed. Because murdered wives are often found with restraining orders, such orders are often considered of little value. Yet, many of the men I talked to took the order seriously and, although they were angry at being kicked out of their houses, did stay away. Women felt comforted by the presence of this legal document, even though many were still harassed by their batterers at home and at work. Furthermore, the no-contact TRO shifts the evidentiary burden away from the woman, releasing her from the necessity of testifying against her batterer in his presence. His presence alone in a proscribed location constitutes adequate evidence of a criminal offense. The skyrocketing use of this mechanism in the 1980s and 1990s indicates its popularity with battered women. It offers what many victims want: separation from their batterer, or even prohibition of violence while they remain together, along with a program of reform. Whether or not this mechanism is always effective, it encapsulates the desires of many battered women who do not want their abusers punished, but reformed or gone. Its novelty is that it foregrounds the security of the victim rather than the reform or punishment of the offender. This spatialized form of governance represents a popular new addition to legal relief for battered women.

It is possible to imagine other expansions of this logic of security for the problem of wife battering. Women could subscribe to battering insurance programs, which would provide funds for emergency housing and moving costs to relocate to a different area. Violence free zones could be established where a person with a history of battering would be excluded. Batterers could be required to wear monitors that would emit a sound when they enter a prohibited zone. Obviously there are difficulties with aspects

of these ideas, but they suggest the possibilities of governance based on security and the regulation of space rather than the regulation of persons.

Conclusions

Although Hilo is a small town, its changing practices of managing wife battering parallel those of big cities and exemplify shifting forms of governance in contemporary industrialized cities. In Hilo, as in many larger cities, responsibility for control of violence against women has shifted from kin and neighbors to the state. It is the law, rather than the family, to which these battered women turn. Such a decision is not easy and is often discouraged by kin and friends. Yet, the skyrocketing number of complaints shows that the turn to the law is happening in Hilo as well as elsewhere in the United States.

In Hilo as well as in large industrial cities, processes of spatial governmentality are shaped by inequalities linked to class and ethnicity. Yet, spatial governmentality does not simply increase the control over the poor, but also can increase the safety of all women. Many who write about risk society fear that it is a slide into a big brother state, but there may be possibilities for these new mechanisms when they are democratically distributed. It took a protracted struggle led by a powerful social movement to develop and implement a legal innovation that benefits poor women. Many judges still question its validity as a legal procedure, and police are often lax in enforcing it. Overworked prosecutors ignore TRO violations. Yet, the creation and implementation of this spatial mechanism of governmentality at least reveals the possibility of more democratic forms of spatial governance for the protection of vulnerable populations.

On the other hand, those who end up with TROs or in batterer treatment programs are typically the poorest and least educated segments of the male population, disproportionately members of colonized and disadvantaged communities. Protecting women from battering provides ways to enhance discipline over men who are already the target of state systems of control. Almost one half (46%) of the men in the batterer intervention program said they had been arrested for an offense other than abuse.²⁰ Wealthier men in Hilo also beat their wives (although this is hard to find out in any systematic way), but they very rarely appear in criminal court or batterer intervention programs and only slightly more often in Family Court. It is largely poor men who are controlled. This example shows that spatial forms of governance do not simply protect the rich and abandon the poor, but that the target of control remains the poor. Wealthy batterers often escape.

The example also reveals the interlocking and layered nature of the mechanisms of punishment, discipline, and security. Each operates only in conjunction with the others and can only be understood within the matrix created by

the whole system. None would function the same alone. Men would not attend ATV unless required to; two days in jail would have little impact on helping men to rethink masculinity; simply staying away from one victim still leaves a batterer free to hit the next one. Spatial separation without criminal penalties for violating it has little effect. **Governmentality** does not shift from one system to the next—from punishment to reform to risk management. Instead, there is a pattern of growth and layering in which the new is added to the old, which then redefines the meanings and operation of the new. There are clearly new dimensions of social ordering in contemporary cities, which are spatial; yet even Disney World does not control behavior without the threat of arrest and punishment. Punishment forms the bedrock for the newer technologies of reform and security. This is not an evolutionary relationship, but an intersecting one. Spatialized control technologies focused on security and risk management are intimately linked to forms of punishment and discipline.

The adoption of new forms of spatial governmentality is part of a complex reconfiguration of governance in the postmodern world. These changes are fostered by globalization. Globalization distributes not only commodities and images, but also modes of governance. The invention of the TRO for gender violence was quickly followed by its rapid spread through the United States. There is now a global diffusion of batterer intervention programs, no-drop policies, and restraining orders. Practices in Hilo are brought by activists from other parts of the country, while judges and officials concerned about controlling gender violence face budget pressures found elsewhere in North America to do less and accomplish more. The Hilo judiciary has, like many other U.S. jurisdictions, focused on developing self-management training for offenders in conjunction with spatially based systems of deterrence in place of more costly systems of punishment. Along with neoliberal approaches to governance, these new technologies of spatial governmentality now circulate globally within cities large and small.

Notes

Acknowledgments. This research has been generously supported by a grant from the Law and Social Sciences Program of the National Science Foundation, #SBR-9320009, and a grant from the Cultural Anthropology Program of the National Science Foundation, #SES-9023397. I am grateful to Marilyn Brown, Tami Miller, and Madelaine Adelman who worked as research assistants on this project. The judges and staff of the courts and the batterer intervention program were unfailingly helpful and supportive.

1. For example, requests for restraining orders nearly tripled in Massachusetts between 1981 and 1993, growing from 15,000 a year to 55,000, then declined slightly through 1996 (Ptacek 1999:62).

2. Governmentality research is characteristically historical, adopting the genealogical method pioneered by Foucault's study of the prison, the clinic, and the human sciences. The time frame for such studies is typically the seventeenth or eighteenth century to the present, and virtually all of the major research has focused on Europe, and to a lesser extent the United States and Canada (see Burchell et al. 1991).

3. Under the system Foucault labels *discipline*, the object of punishment shifted from the body of the condemned to the soul of the prisoner (Foucault 1979; see Shumway 1989; Hunt and Wickham 1994). Disciplinary mechanisms involve the detailed temporal and spatial regulation of activity and the body, seeking to inculcate new habits through repetition rather than through insight or self-awareness. Supervision, examination, correction, classification, and hierarchization are key techniques. Developed first in the eighteenth century, these techniques became dominant in the nineteenth century in schools, factories, the military, and many other institutions as well as in the prison. Foucault emphasizes the detailed techniques that produce discipline: surveillance, the management of time, the control over the body. The modern individual was produced by the operation of these regimes of power (see Ewick 1997:76).

4. Foucault's work on governmentality is both tantalizing and frustrating. He never developed a full theory nor wrote a book on the subject, yet his concepts and approaches are suggestive and intriguing, if also often unclear and even contradictory (see Hunt and Wickham 1994; Garland 1999). Many of his ideas have been elaborated and expanded by scholars in a variety of fields, particularly criminology and sociology.

5. In their analysis of the importance of technologies of mapping for the definition of and control over urban space, Blomley and Sommers show that neighborhood groups contest the demarcation of spaces on planners' maps (1999).

6. In Rose's view, self-management is a facet of consumption: a self is formed as people choose marriage, divorce, and having children and as they choose systems of values (Rose 1990). Even as the individual experiences the autonomy of constructing a self through choice, this self must also engage in continual self-scrutiny and evaluation of skills and performances in contrast to idealized images (1990:254). Rose dates the emergence of this self-managing system of governance to the 1950s and more recently to neoliberalism and the critique of the welfare state (Rose 1990:226–227). But since the 1960s, the new subject of governmentality has become the community rather than the social: a diversity of communities with different allegiances construed as localized, heterogeneous, overlapping, and multiple, which may or may not be the same as a physical, spatial concept of community (Rose 1996:332–333).

7. Sovereignty relies on punishments in the form of violence and fines, the severity and nature of which are targeted to the prohibited act. The intention is to deter rather than to reform: the fear of punishment is expected to dissuade the offender, who is assumed to be a rational choice-maker. The law is often the instrument for determining the offense and imposing the punishment. Foucault tends to dismiss the importance of law as a mode of regulation in modern society, connecting it to systems of command exerted by pre-modern monarchs. However, Hunt and Wickham argue persuasively that Foucault

adopted a very narrow and restricted meaning of law and that in his effort to emphasize the microphysics of power, its capillary actions, he downgraded the importance of state systems of power such as law (Hunt and Wickham 1994). At the same time, they argue that Foucault failed to study the legal system and its discourses and practices with the same attention that he studied other institutions, so that he never recognized the interconnections between law and other disciplinary systems nor did he theorize the extent to which law and rights discourse has served as an emancipating system as well as a controlling one.

8. These statistics are based on an analysis of all the cases in the Hilo District Court for an entire year once in each decade from 1853 to 1903. In addition, I recorded every case of gender violence in the Hilo court between 1852 and 1913. This research is discussed in more detail in Merry (2000).

9. Arrests for spousal assault in California jumped from 757 in 1981 to 60,279 in 1995, a 60-fold per capita increase (Rosenbaum 1998:412). After Denver's mandatory arrest policy was implemented in 1984, arrests increased tenfold in ten years (St. Joan 1997:264).

10. Of those not prosecuted, the victim refused to cooperate or moved away in 8, the defendant left in 3, and a technical error precluded prosecution in 1. In 28 of these cases, the perpetrator was male and the victim female. Two involved same-sex relationships. I am grateful to Madelaine Adelman for assistance with this research.

11. Batterers' intervention programs following this model were the dominant approach to treating batterers in the United States by the end of the 1990s (Hanna 1998; Healy et al. 1998).

12. I observed women's support groups and men's violence control groups in Hilo from 1991 to 2000 and formally interviewed 30 men and women who participated in the program. Marilyn Brown, Tami Miller, and Madelaine Adelman provided valuable assistance with observations and interviewing. See Merry (1995).

13. It is possible that these figures exaggerate the disparity in incomes between ATV participants and the town, however, since the census asks for household income and the ATV intake form does not specify household or individual income.

14. Comparing the ATV population to the census designation of educational levels of people 25 years of age and above reveals that the ATV population lacks both extremes: while 11% of the general population has less than an eighth grade education, only 1% of the ATV population falls into this category.

15. A law providing for Ex-Parte Temporary Restraining Orders for victims of domestic violence was passed in 1979 (Oahu Spouse Abuse Task Force 1986, quoted in Hawai'i Island Spouse Abuse Task Force 1989:Appendix C-5).

16. The statute for domestic violence is in Chapter 586 of the Civil Family Law. Harm or threat of harm is sufficient basis for a temporary restraining order. Violation of a protective order is covered under Penal Code 709–906. Violation of the protective order means a mandatory minimum two days in jail for the convicted person.

17. A similar pattern took place elsewhere. For example, the number of restraining orders issued in Massachusetts

nearly tripled between 1985 and 1993, then began to level off (Ptacek 1999:62).

18. Marilyn Brown and I observed the domestic violence calendar in the Hilo Family Court, which was held once a week, for nineteen weeks from July 1991 to August 1992 and tabulated and analyzed these 130 cases. I have continued to observe the domestic violence calendar of the Family Court subsequently every year from 1991 to 2000.

19. In the sample of 130 cases from the early 1990s, almost half (43%) of respondents in all hearings, both initial and review hearings, were referred to ATV. Of newly issued orders, 37% (31 of 85) included referrals to ATV and 63% did not. But ATV referrals were much more likely with contact TROs. Slightly under half (42%) of petitioners requested and received TRO orders allowing them to have continuing contact with the respondent, but without violence. Of this group, 61% were referred or rereferred to ATV.

20. This figure is based on 1,039 intake questionnaires.

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